UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

No. 5:07-CV-319-F

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This matter is before the court on the Memorandum and Recommendation (M & R) of United States Magistrate Judge David W. Daniel filed on October 11, 2007. The plaintiff did not file any objections to the Magistrate Judge's M & R.

After an independent and thorough review of the Magistrate Judge's M & R and a *de novo* review of the record, the court concludes that the M & R is correct and in accordance with the law. Accordingly, the court hereby ADOPTS the Magistrate Judge's M & R.

The plaintiff's Motion to Proceed *In Forma Pauperis* is ALLOWED, but plaintiff's complaint is DISMISSED as frivolous.

SO ORDERED.

This 6th day of November, 2007.

Sanior United States District Judge